



# Indiana Court Times

Supreme Court, Division of State Court Administration  
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## ***Judges, Prosecutors to Select Benefits Using PeopleSoft***

***State Court Administration will assist judicial officials in use of on-line benefits selection system during Fall 2003 Open Enrollment.***

During fall 2003 benefits open enrollment, trial court judges, magistrates, prosecuting attorneys, deputy prosecuting attorney, and other judicial officials paid with state funds will be required to make benefits choices online using the Indiana Department of Personnel's mandated PeopleSoft benefits administration system. Some 650 judicial officials whose payroll and benefits are administered by the Division will be affected.

Open enrollment is the annual two-week period during which employees may make changes to their benefits packages. Fall open enrollment allows state employees to make changes with regard to health, dental, and vision coverage. Life insurance may not be changed during this period. Open enrollment for life insurance benefits occurs every two years in June. The most recent life insurance open enrollment was in June 2003.

Indiana Personnel several years ago began moving to the use of PeopleSoft, a web-enabled self-help benefits administration tool. Using PeopleSoft, each individual employee is to log on to the network via the Internet, access his or her account using an employee identification number and password, and make any benefits changes desired online. The changes are then automatically forwarded to the payroll clerks and to Indiana Personnel. The new on-line system replaces the old procedure whereby each employee received by mail

a package containing information regarding the various benefit choices. Applications and change directives were completed, signed, and mailed to the payroll offices.

Although precise dates for open enrollment have not yet been established, it will likely occur during November or December, 2003. Prior to that time, employees may visit the PeopleSoft website at <https://gmisappl1.gmis.state.in.us/servlets/iclientservlet/hrprd>.

Even if an individual employee will not make changes to benefits during open enrollment, the employee must log onto the PeopleSoft system during the open enrollment period to verify that no changes will be made.

The Division will provide information regarding the use of PeopleSoft to employees as open enrollment draws nearer. Special training sessions for judges and other judicial officials will be available at the annual meeting of the Indiana Judicial Conference, scheduled for September 10-12, 2003, in Indianapolis. Specific information pertaining to the training will be provided with the conference materials distributed by the Indiana Judicial Center. The Indiana Prosecuting Attorney Council is assisting the Division with providing information pertaining to PeopleSoft to prosecuting attorneys and deputy prosecuting attorneys paid by the Division.

For more information, contact the Division of State Court Administration at 317.232.2542.

## ***Supreme Court Administrator and Law Clerk Named "Friends of the Court"***

***Supreme Court Administrator Douglas E. Cressler and Jimmie L. McMillian, a law clerk to Associate Justice Frank Sullivan, Jr., were named "Friends of the Court" for their outstanding service to the Moot Court Society of the Indiana University School of Law at Indianapolis.***

The program unveiled a new recognition award recently called "Friend of the Court."

It is designed to honor a member of the local legal community who has been particularly helpful to the moot court program. The honorees' names will be inscribed on a special new plaque that will be hung in the law school. Mr. Cressler and Mr. McMillian were the inaugural co-winners of the award.

The Moot Court Society organizes dozens of mock oral arguments between law students who argue before a panel of two to three judges. Many of the judges are drawn from the legal community of Indianapolis and include judges and practicing attorneys. Mr. McMillian, who graduated from the law school in 2002, was

nominated because he frequently volunteered to serve as "judge" on a moot court panel at the law school.

Mr. Cressler, who graduated from the law school in 1989, was honored because of extensive efforts at organizing volunteer judges from the appellate court law clerks in the State House which enabled many moot court practitioners to argue in the Supreme Court Chambers.

"Doug and Jimmie are great assets to the Court. It is not surprising to me that they both make additional contributions to the legal community and especially our law students. I know my colleagues join me in congratulating them and thanking them for representing the Court so well," said Chief Justice Randall T. Shepard.

## ***General Assembly Amends Statute Setting Senior Judge Per Diem***

***The 2003 Indiana General Assembly amended Indiana Code Section 33-4-8-5, effective July 1, 2003, in HEA 1092. It provides for an increased per diem for senior judges after 30 days of service.***

Specifically, the statute as amended calls for an increase to the per diem paid to senior judges from \$50 per day to \$100 per day after the 30<sup>th</sup> day of service in each calendar year.

However, the statute provides further that the increased compensation "must be paid by the state from funds appropriated to the Supreme Court for judicial payroll." Should the payroll fund be insufficient to pay the compensation, the Supreme Court is authorized to "issue an order adjusting the compensation rate."

Chief Justice Randall Shepard has advised senior

judges that the court plans to review the senior judge compensation program before the end of the summer. In the meantime, the Supreme Court will calculate the fiscal impact to its payroll accounts occasioned by the statutory change and will develop a plan to implement compensation changes. These funding adjustments are part of a planned senior judge administration package that will include a comprehensive set of rules governing many aspects of senior judge service. The package is being developed by the Supreme Court, with staff assistance from the Indiana Judicial Center and the Division.

## Inheritance Tax Confidentiality

***New statute, effective July 1, 2003, makes inheritance tax orders confidential.***

The 2003 Indiana General Assembly amended I.C. 6-4.1-5-10 (H.E.A. 1368/P.L. 176-2003), effective July 1, 2003, by adding a new subsection (c) affecting court orders determining inheritance tax. The new subsection makes such orders *confidential*. Because of the new

confidentiality of such orders, the Division recommends revised record-keeping procedures for such orders.

Subsection (b) requires the trial court clerk to "maintain the orders in a loose-leaf ledger." This office recommends that, beginning July 1, all inheritance tax orders (form # IH-9

Rev 601 SF#48854) be placed in the confidential Records of Judgments and Orders.

Courts with a high volume of orders determining inheritance tax should keep the orders in a separate loose-leaf binder titled "Confidential Inheritance Tax Orders."

## Supreme Court Clerk Departs to Accept Federal Position

***Brian Bishop, Supreme Court Clerk since 1998, has resigned his position to seek opportunities with the federal government.***

First elected in 1998, Brian Bishop resigned his position to begin employment with the United States Department of Justice in Washington D.C. Bishop's last day as Clerk of the Supreme Court, Court of Appeals, and Tax Court was July 7, 2003.

Following Bishop's departure,

Governor Frank O'Bannon appointed Governor's deputy counsel, Colleen McNeeney Shere, to be acting clerk until the Governor appoints a permanent replacement. The Governor will appoint a replacement to complete Bishop's current term, which ends in January 2007.

The clerk of the appellate courts

is responsible for records filed with the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. The Clerk maintains the Roll of Attorneys, which is the official compilation of all attorneys licensed to practice in the State of Indiana, and collects the annual registration fees required of all active Indiana attorneys.

## Neal Bowling Begins Tenure as New Public Defender Commission Staff Attorney

***Neal Bowling has joined the Division as staff attorney assigned to support the Public Defender Commission.***

Pursuant to statute, the Division provides staff support to the Commission and administers the Public Defense Fund. Bowling will assist the Commission in setting standards for indigent defense services in capital and non-capital cases. Additionally, he will assist in administering the program of reimbursements from the Public Defense Fund to

participating counties, pursuant to I.C. 33-9-14-4.

Bowling earned an undergraduate degree in history from Indiana University in 1990, and graduated from Indiana University School of Law – Bloomington in 1995. Prior to joining the Division, Bowling was an attorney at the Marion County Public

Defender Agency, where he represented individuals at trial against criminal charges ranging from theft to murder. He is currently pursuing an MBA degree at the IU Kelley School of Business.

He began his duties with the Division in May 2003, and can be contacted at the Division offices at (317) 232-2542.

## ***Judge Robert Hublar and Judge Dennis Parry Retire; Governor Fills Vacancies***

***G***overnor Frank O'Bannon name replacements in Floyd and Howard counties after the departure of longtime jurists.

On July 30, 2003, Governor Frank O'Bannon announced the appointment of Glenn G. Hancock as judge of the Floyd County Court. Hancock will replace Judge Robert T. Hublar, who retired August 15, 2003. Hancock will complete a term ending on December 31, 2008. Hancock has been a trial lawyer for 20 years. From 1992 to 1997 he served as New Albany city attorney, and from 1984 to 1987 he was attorney for the New Albany Planning Commission. Hancock earned his law degree from the University of Louisville School of Law. His undergraduate degree is from Indiana University - Southeast.

Hublar was appointed to the bench in 1976 and served on the Court Alcohol and Drug Program Advisory Commission of the Judicial Conference of Indiana. He is an Indiana Judicial College graduate.

On July 25, 2003, Governor O'Bannon also appointed

Michael P. Krebs as judge of Howard Superior Court 1. Krebs will replace judge Dennis H. Parry, who retired on July 1, 2003.

Krebs will complete a term ending December 31, 2004. During the past two years, Krebs worked as a deputy public defender in Howard County. From 1990 to 2001 he served as a deputy prosecutor in the office of the Howard County Prosecutor. He is associated with the Kokomo law firm of Racquet & Vanderbosch. He earned his law degree from Valparaiso University School of Law and earned a bachelor's degree from Indiana University Northwest.

Judge Parry was appointed to the bench in April, 1980. He served on the Alternative Dispute Resolution Committee of the Indiana Judicial Conference. Judge Parry is a graduate of both the Indiana Judicial College and the National Judicial College.

## ***Alternative Dispute Resolution Fund Created, Effective July 1***

***F***und to support those who have least ability to pay.

On July 1, 2003, new legislation went into effect authorizing counties to collect an additional \$20 fee from parties filing petitions for legal separation, paternity, or dissolution of marriage. The act is codified at I.C. 33-4-13.

The new fee is earmarked for an alternative dispute resolution fee fund. The funds will be used to foster domestic relations alternative dispute resolution (including mediation), reconciliation, non-binding arbitration, and parental counseling.

Money in the fund must primarily benefit litigants who have the least ability to pay. Parties referred to services covered by the fund will make a co-payment for the services in an amount determined by the court based on the litigant's ability to pay.

If a county chooses to participate in the ADR program under this new legislation, it must develop a plan consistent with the statute and submit the plan to the Judicial Conference of Indiana. Additionally, pursuant to a new ADR rule adopted by the Supreme Court, ADR plans must be approved by the Executive Director of the Indiana Supreme Court Division of Court Administration.

The Domestic Relations Committee of the Judicial Conference is developing guidelines for counties defining what needs to be contained in the ADR plans and in the annual report that must be filed each year summarizing the results of the ADR program. These guidelines should be available to counties in late August, 2003.

## Federal District Court In Hammond Goes Cherry Picking

*DeKalb Circuit Court Judge Paul Cherry has been selected as a federal magistrate.*



Judge Cherry was elected to the bench of DeKalb Circuit Court on January 1, 1989, and has now been selected to fill a vacancy in the federal district court sitting in Hammond, Indiana. Although the actual date of Judge Cherry's departure is not yet known, it is expected to be on or about October 1, 2003.

Governor Frank O'Bannon is accepting applications for successors to the DeKalb Circuit Court bench, to serve the

remainder of the current term running until 2006. Applications must be submitted to the Governor no later than August 18, 2003.

In the federal court system, magistrate judges are appointed to serve terms of eight years.

Prior to serving as circuit court judge, Judge Cherry served as DeKalb county prosecutor from 1982 - 1988.

Judge Cherry earned his undergraduate degree from Huntington College, where he continues to serve as chairman of the board of trustees. Judge Cherry received his law degree from Ohio Northern University School of Law.

## Indiana CLEO Fellow Tapped For City Court Bench

*An Indiana attorney and former law student in the Supreme Court's Indiana CLEO scholarship program was sworn in as the first Hispanic judge in the East Chicago, Indiana City Court on March 20, 2003.*

Eduardo Fontanez, Jr., 27, is the first Indiana CLEO Fellow to hold a judicial position in the State of Indiana. Governor Frank L. O'Bannon appointed the East Chicago native to run the city court until the end of the year as the interim judge.

Prior to being appointed to the city court, Judge Fontanez served as a deputy prosecutor for the Lake County Prosecutor's office and had the opportunity on several occasions to litigate in the East Chicago City Court.

The Indiana CLEO program celebrated his selection as a major accomplishment for the program. "Our Indiana

[CLEO] is designed to bring people of diverse backgrounds into the legal system, and the selection of Mr. Fontanez shows our program is working. Most of our Indiana CLEO fellows have always shown strong leadership traits. I am not surprised Gov. O'Bannon recognized this in Mr. Fontanez and appointed him to this position," said Chief Justice Shepard.

Judge Fontanez is a graduate of Indiana University School of Law-Indianapolis and was a member of the second Indiana CLEO class in 1998 hosted by Valparaiso University School of Law.

## Annual Juvenile Judges' Conference Attended by 118 Judicial Officers

*One hundred and eighteen judges and magistrates attended the 2003 Annual Conference for Juvenile Court Judicial Officers, held in Nashville, Indiana, on June 19-20. The Conference event was put on by the Indiana Judicial Center, staff agency of the Indiana Judicial Conference.*

The conference marked the 100th year anniversary of juvenile courts in Indiana. Also attending the conference were members of the Indiana Commission on Continuing Legal Education, whose contributions assisted in the presentation of a conference celebrating the 100<sup>th</sup> year anniversary.

Indiana Supreme Court Associate Justice Justice Frank Sullivan, Jr. opened the conference with *One Hundred Years After the Founding: Juvenile Court Judges in Indiana Today*, which chronicled the establishment of juvenile courts in Indiana. Shay Bilchek, CEO of the Child Welfare League of America, presented *Making Children a National*

*Priority: A Framework for Just and Healthy Communities*. Conferees then heard from fellow judicial officers on several key subjects, including juvenile drug courts, mediation in dependency cases, "teen" courts, and dealing with serious delinquents.

Lunch speaker James W. Payne, presiding judge of the Marion County Juvenile Court, presented a pictorial history of the juvenile court. The day's final speaker was Cheryl Sullivan, the chair of the Governor's Commission on Juvenile Law, who engaged conferees in a "brainstorming" session designed to assist the Commission in its plans to investigate revisions to the juvenile code.



## Ask Jack

*(Each issue, Jack Stark, Director of Trial Court Services, will answer reader questions concerning matters of court administration or general reader interest. Should no interesting questions be presented, Jack will make up a question and answer it! Anyone with a question is invited to send it to Jack Stark, Division of State Court Administration, 115 West Washington Street, Suite 1080, Indianapolis, Indiana 46204, or e-mail it to [jstark@courts.state.in.us](mailto:jstark@courts.state.in.us).)*

**Question:** I've noticed that all counties have "local" court rules governing aspects of court procedure not specifically governed by the Indiana Supreme Court's court rules. Do the local rules have to be approved by the Supreme Court or its clerk?

**Answer:** The answer to that question is "yes and no." Let me explain.

Indiana Trial Rule 81 provides that local courts may make and amend rules governing their practice, as long as the local rules are not "inconsistent" with the Supreme Court's trial rules. The rule also provides that two copies of all rules made by a local court shall upon their promulgation be furnished to the clerk of the Indiana Supreme Court.

Although T.R. 81 requires copies of all local rules to be "furnished" to the Supreme Court Clerk, there is no Supreme Court approval process mentioned in the rule.

However, there are several types of local rules which are required to be approved by the Indiana Supreme Court. They are:

1. *Local rules governing appointment of special judges in civil cases.* Trial Rule 79(H) provides that local rules providing for appointment of persons eligible to serve as special judge within the administrative district, for the effective use of judicial resources within the district, and for certification of the special judge matter to the Supreme Court for appointment of a special judge where there is no one available under local procedure to take the case, or where "particular circumstance" warrants supreme court appointment, must be approved by the Supreme Court.

2. *Local rules governing assignment and reassignment of criminal cases.* Indiana Criminal Rule 2.2 provides that local rules governing assignment of felony and misdemeanor cases to trial courts must be approved by the Supreme Court. Criminal Rule 13 requires the Supreme Court to approve local rules governing the reassignment of criminal cases and the appointment of special judges in felony and misdemeanor cases where a change of venue is granted pursuant to Crim.R. 12(B) or where the judge recuses or disqualifies.

3. *Local rules governing court reporter services.* Indiana Administrative Rule 15 provides that local rules specifying how "court reporter services" shall be "governed" must be approved by the Indiana Supreme Court.

4. *Local Rules pursuant to Supreme Court Order, dated July 16, 1999, directing courts to reduce caseload disparity.* In this order, the Court directed courts to adopt "for approval by the Supreme Court" local rules designed to diminish disparity in caseloads of judicial offices. This is measured by the weighted caseload measures.

Once rules in these four categories are promulgated by trial court, they should be forwarded to the Division of State Court Administration, 115 West Washington St., Ste. 1080, Indianapolis, Indiana, for review and approval by the Supreme Court. Such rules are not effective unless and until they are approved by an Order of the Supreme Court. All other local rules should, upon promulgation, be forwarded to the Indiana Supreme Court Clerk.

## Recodification of Title 33, Governing Courts and Court Officers, Begins This Summer

by Timothy Tyler and Dave Remondini

Even though the term “recodification” is not likely to stir passion in the hearts of most Indiana lawyers, the upcoming recodification of Title 33 of the Indiana Code, which directly affects courts and court officers, is nonetheless an important undertaking that will affect many of our state’s practitioners.

Indiana’s legislative leadership has instructed the Legislative Services Agency to make Title 33 of the Indiana Code the next project in an on-going effort to recodify the entire Indiana Code. To make the project successful, the Code Revision Commission is inviting public comment and is very interested in input from the people who make up Indiana’s legal system.

A primary goal of the recodification effort, which began this summer, will be to create new chapters that combine the common aspects that many superior courts share but are now included in dozens of separate chapters for each individual court and spread out over hundreds of pages. For example, Indiana Code § 33-5-19.8-1 states:

“(a) There is established a court of record to be known as the Harrison superior court....

(b) The court may have a seal containing the words, “Harrison Superior Court, Harrison County, Indiana.”

(c) Harrison County comprises the judicial district of this court.”

Identical or nearly identical language is mirrored throughout Title 33, with the sole exception being the name of the particular Superior court and the court’s location. To cut down on repetition and to make Title 33 easier to use, the recodification project would propose to combine these similarly worded chapters into standard chapters. All of the standard provisions would be in chapters in a new Article. This proposal is quite similar to the way the statutes about Indiana’s circuit courts are organized in Indiana Code § 33-2.1.

However, the many unique characteristics that make up the fabric of Indiana’s Superior courts would remain in separate chapters. Many counties, for example, have distinct nominating methods that are used to fill judgeships or which involve the number of judges in a given court or its jurisdiction. Those kinds of special sections would remain intact. But under the proposed reorganization of Title 33, these chapters will be renumbered, relocated, and placed in separate chapters, by county, in the new Article. Naturally, practitioners will find that longstanding Indiana Code cita-

tions will be revised by the proposed recodification. To view the proposed organizational scheme of Title 33, visit: [www.IN.gov/legislative/interim/committee/crsc.html](http://www.IN.gov/legislative/interim/committee/crsc.html).

As part of the recodification of Title 33, the Code Revision Commission will examine the Judiciary Law of 1973, Ind. Code § 33-2.1, to determine if it has any conflicts with the proposed recodification.

Preliminary drafts of the Title 33 recodification will also be available on the Internet at [www.in.gov/legislative/interim/committee/crsc.html](http://www.in.gov/legislative/interim/committee/crsc.html).

Recodification is designed to reorganize and restate the law in a manner that scrupulously avoids any substantive changes in the law. The Legislative Services Agency is responsible for drafting, editing, and publishing the recodified law and the Code Revision Commission will oversee the entire recodification project.

Work completed by the Commission will be presented in the form of a bill for consideration by the 2004 General Assembly.

The Commission is chaired by a member of the House or the Senate on a rotating basis each year. Rep. Robert D. Kuzman, D-Crown Point, is chairman this year and he is joined by three other members of the House and four members of the Senate. The Chief Justice, the Chief Judge of the Court of Appeals, the Attorney General, the Secretary of State, and the Governor (or the designee of any of those statewide officeholders) are also members. In addition, the Commission includes an Indiana attorney and a present or former law professor, each selected by the chairman of the Legislative Council.

Meetings of the Commission are open to the public and generally held in the Indiana State House. Public input is welcome and public testimony is allowed, subject to the chair’s discretion.

If you would like to comment on this recodification project, the proposed organizational scheme, or be notified by E-mail when preliminary drafts are posted on the internet, please contact Timothy Tyler at the Legislative Services Agency, 200 West Washington Street, suite 301, Indianapolis, IN 46204, or by E-mail at [tyler@iga.state.in.us](mailto:tyler@iga.state.in.us). Mr. Tyler is the senior staff attorney for the Indiana Code Revision Commission. Chief Justice Randall T. Shepard’s designee to the Code Revision Commission is Mr. David Remondini, counsel to the Chief Justice.

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Our goal is to foster communications, respond to concerns, and contribute to the spirit and pride that encompasses the work of all members of the judiciary around the state. We welcome your comments, suggestions and news. If you have an article, advertisement, announcement, or particular issue you would like to see in our publication, please contact us.

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### **Editorial Board**

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## **Please Circulate to Co-workers**

**This newsletter reports on important administrative matters. For future reference, add it to your Trial Court Administrative Manual.**

## *Indiana Court Times*

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